

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Thomas C. Holman  
Bankruptcy Judge  
Sacramento, California

**June 10, 2014 at 9:31 A.M.**

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1.     [10-25273](#)-B-13    JAMESETTA CHRISTIAN                     MOTION FOR RELIEF FROM  
          DVW-1   AUTOMATIC STAY  
  5-15-14 [[133](#)]  
  
          21ST MORTGAGE CORPORATION  
          VS.

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. In this instance the court issues the following tentative ruling on the merits of the motion.

The motion is dismissed as moot. The chapter 13 plan (the "Plan"), filed August 6, 2012, (Dkt. 109), confirmed by order entered September 20, 2012 (Dkt. 121), already provides relief from the automatic stay for this Class 4 claim regarding real property located at 747 Beelard Drive, Vacaville, California (APN 0094-202-040). The movant already has the relief it seeks by this motion.

The court will issue a minute order.

2.     [11-28590](#)-B-13    JOE/CECILIA MODESTO                     MOTION FOR RELIEF FROM  
          NLG-1   AUTOMATIC STAY  
  5-5-14 [[59](#)]  
  
          U.S. BANK, N.A. VS.

**Tentative Ruling:** The chapter 13 trustee's opposition is sustained. The motion is denied.

The movant seeks relief from the automatic stay to allow it to proceed to exercise its rights under applicable nonbankruptcy law with respect to real property located at 18031 Mallard Street, Woodland, California (the "Property"). The movant seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) based on the alleged failure of the debtors to make monthly ongoing post-petition contract installment payments to the movant, thereby defaulting under the terms of their confirmed chapter 13 plan (the "Plan"). The movant seeks relief from the automatic stay under 11 U.S.C. § 362(d)(2) based on the debtors' alleged lack of equity in the Property.

Contrary to the movant's assertions, the Plan does not require the

debtors to make direct payments to the movant. Instead, the Plan provides that the movant's claim is treated in Class 1, to be paid to the movant by the chapter 13 trustee from the debtors' plan payments. The motion is denied because the chapter 13 trustee's opposition shows that the debtors are current in their plan payments to the trustee and that the trustee has made all disbursements to the movant for ongoing post-petition monthly contract installment payments that have come due since the date of the filing of the petition. The motion is also denied because the movant has shown no evidence of compliance with LBR 4001-1(b)(1) or (2), despite the movant's allegations of default in post-petition payments and the debtors' default under the terms of their plan. The movant has not shown cause for relief from the automatic stay under 11 U.S.C. § 362(d)(1).

Relief from the automatic stay under 11 U.S.C. § 362(d)(2) is also unwarranted. Assuming that the debtors have no equity in the Property, it is the debtors' residence and is necessary to an effective reorganization that is not only in prospect, but is proceeding pursuant to a confirmed plan under which the debtors are current.

The court will issue a minute order.